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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DUARDO OLVERA, DELFINO OLVERA, FERNANDO
PERALTA AND MODESTO PERALTA, *individually*
and on behalf of others similarly situated

Civil Action No.: 14-cv-1372

Plaintiffs,

-against-

**ANSWER TO FIRST
AMENDED COMPLAINT**

BAREBURGER GROUP LLC, BAREBURGER INC.,
EAST 87 BURGERS LLC (d/b/a 1681 FIRST AVENUE
BAREBURGER), EAST SIDE BURGERS LLC (d/b/a
1370 FIRST AVENUE BAREBURGER), BAREBURGER
EAST SIDE LLC (d/b/a BAREBURGER), EURIPIDES
PELEKANOS, GEORGIOS RODAS, JOSEPH
BUSUTTIL, PANTELIS TZANIDAKIS, PETROS
TZANIDAKIS, GEORGIOS TZANIDAKIS, JOHN
KAPSALIS

Defendants.

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ANSWER

The defendants EAST 87 BURGERS LLC, EAST SIDE BURGERS LLC, JOSEPH
BUSUTTIL, PANTELIS TZANIDAKIS, PETROS TZANIDAKIS, GEORGIOS TZANIDAKIS,
and JOHN KAPSALIS (hereinafter referred to, collectively, as the “Defendants”), by and
through their attorneys, STEPHEN D. HANS AND ASSOCIATES, P.C., as and for their
Answer to the First Amended Complaint dated and filed in this action on May 13, 2014
(hereinafter the “Complaint”) by the plaintiffs DUARDO OLVERA, DELFINO OLVERA,

FERNANDO PERALTA AND MODESTO PERALTA, individually and on behalf of others similarly situated (hereinafter referred to as the "Plaintiffs"), allege as follows:

AS AND FOR PLAINTIFFS' STATEMENTS REGARDING "NATURE OF THE ACTION"

1. With respect to the allegations contained in Paragraph 1 of the Complaint, the Defendants admit to the allegations contained in such Paragraph.
2. With respect to the allegations contained in Paragraph 2 of the Complaint, the Defendants admit to the allegations contained in such Paragraph.
3. With respect to the allegations contained in Paragraph 3 of the Complaint, the Defendants admit to the allegations contained in such Paragraph.
4. With respect to the allegations contained in Paragraph 4 of the Complaint, the Defendants admit to the allegations contained in such Paragraph.
5. With respect to the allegations contained in Paragraph 5 of the Complaint, the Defendants admit to the allegations contained in such Paragraph.
6. With respect to the allegations contained in Paragraph 6 of the Complaint, the Defendants admit to the allegations contained in such Paragraph.
7. With respect to the allegations contained in Paragraph 7 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.
8. With respect to the allegations contained in Paragraph 8 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.
9. With respect to the allegations contained in Paragraph 9 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.
10. With respect to the allegations contained in Paragraph 10 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

11. With respect to the allegations contained in Paragraph 11 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

12. With respect to the allegations contained in Paragraph 12 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph; except that the Defendants admit only that the Plaintiffs have commenced this action on behalf of themselves and that the Plaintiffs also purport to seek to represent alleged similarly situated individuals in a purported collective action pursuant to the Fair Labor Standards Act (“FLSA”) and N.Y. Labor Law (“NYLL”).

13. With respect to the allegations contained in Paragraph 13 of the Complaint, the Defendants state that such allegations consists of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent that a response may be deemed required, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

**AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING
“JURISDICTION AND VENUE”**

14. With respect to the allegations contained in Paragraph 14 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent that a response may be deemed required, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

15. With respect to the allegations contained in Paragraph 15 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

**AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING
"THE PARTIES"**

16. With respect to the allegations contained in Paragraph 16 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph, except Defendants admit that Plaintiff Eduardo Olvera ("Plaintiff Olvera") is an adult individual.

17. With respect to the allegations contained in Paragraph 17 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

18. With respect to the allegations contained in Paragraph 18 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph, except Defendants admit that Plaintiff Delfino Olvera ("Plaintiff Delfino") is an adult individual.

19. With respect to the allegations contained in Paragraph 19 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph, except that Defendants admit that Plaintiff Delfino was employed at the 87th Street location for a certain period of time.

20. With respect to the allegations contained in Paragraph 20 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph, except Defendants admit that Plaintiff Fernando Peralta is an adult individual.

21. With respect to the allegations contained in Paragraph 21 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

22. With respect to the allegations contained in Paragraph 22 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph, except Defendants admit that Plaintiff Modesto Peralta is an adult individual.

23. With respect to the allegations contained in Paragraph 23 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

24. With respect to the allegations contained in Paragraph 24 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

25. With respect to the allegations contained in Paragraph 25 of the Complaint, the Defendants admit the allegations contained in such Paragraph.

26. With respect to the allegations contained in Paragraph 26 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

27. With respect to the allegations contained in Paragraph 27 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

28. With respect to the allegations contained in Paragraph 28 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

29. With respect to the allegations contained in Paragraph 29 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

30. With respect to the allegations contained in Paragraph 30 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent that a response may be deemed required, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

31. With respect to the allegations contained in Paragraph 31 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent that a response may be deemed required, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

32. With respect to the allegations contained in Paragraph 32 of the Complaint, the Defendants admit to the allegations contained in such Paragraph.

33. With respect to the allegations contained in Paragraph 33 of the Complaint, the Defendants admit to the allegations contained in such Paragraph.

34. With respect to the allegations contained in Paragraph 34 of the Complaint, the Defendants admit to the allegations contained in such Paragraph.

35. With respect to the allegations contained in Paragraph 35 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

36. With respect to the allegations contained in Paragraph 36 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

37. With respect to the allegations contained in Paragraph 37 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

38. With respect to the allegations contained in Paragraph 38 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph, except that Defendants admit that Defendant Georgios Tzanidakis is an individual engaging in business and is being sued.

39. With respect to the allegations contained in Paragraph 39 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

**AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS REGARDING
"FACTUAL ALLEGATIONS"**

40. With respect to the allegations contained in Paragraph 40 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

41. With respect to the allegations contained in Paragraph 41 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

42. With respect to the allegations contained in Paragraph 42 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

43. With respect to the allegations contained in Paragraph 43 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph. In asserting such response, the Defendants note that no judicial determination has yet been made regarding what, if any, employees may be deemed "similarly situated" to the Plaintiffs for purposes of this action.

44. With respect to the allegations contained in Paragraph 44 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such paragraph. In asserting such response, the Defendants note that no judicial determination has yet been made regarding what, if any, employees may be deemed “similarly situated” to the Plaintiffs for purposes of this action.

45. With respect to the allegations contained in Paragraph 45 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

46. With respect to the allegations contained in Paragraph 46 of the Complaint, the Defendants state that such allegations consist of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent a response may be deemed required, the Defendants deny all of the allegations contained in such paragraph.

47. With respect to the allegations contained in Paragraph 47 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

48. With respect to the allegations contained in Paragraph 48 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

49. With respect to the allegations contained in Paragraph 49 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

50. With respect to the allegations contained in Paragraph 50 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

51. With respect to the allegations contained in Paragraph 51 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

52. With respect to the allegations contained in Paragraph 52 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

53. With respect to the allegations contained in Paragraph 53 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

54. With respect to the allegations contained in Paragraph 54 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

55. With respect to the allegations contained in Paragraph 55 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

56. With respect to the allegations contained in Paragraph 56 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

57. With respect to the allegations contained in Paragraph 57 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

58. With respect to the allegations contained in Paragraph 58 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

59. With respect to the allegations contained in Paragraph 59 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

Individual Plaintiffs

60. With respect to the allegations contained in Paragraph 60 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

61. With respect to the allegations contained in Paragraph 61 of the Complaint, the Defendants admit only that Plaintiffs purport to seek to represent a class of similarly situated individuals under 29 U.S.C. 216(b). In asserting such response, the Defendants note that no judicial determination has yet been made regarding what, if any, employees may be deemed "similarly situated" to the Plaintiffs for purposes of this action.

Plaintiff Eduardo Olvera

62. With respect to the allegations contained in Paragraph 62 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

63. With respect to the allegations contained in Paragraph 63 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

64. With respect to the allegations contained in Paragraph 64 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

65. With respect to the allegations contained in Paragraph 65 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

66. With respect to the allegations contained in Paragraph 66 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

67. With respect to the allegations contained in Paragraph 67 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

68. With respect to the allegations contained in Paragraph 68 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

69. With respect to the allegations contained in Paragraph 69 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

70. With respect to the allegations contained in Paragraph 70 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

71. With respect to the allegations contained in Paragraph 71 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

72. With respect to the allegations contained in Paragraph 72 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

73. With respect to the allegations contained in Paragraph 73 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

74. With respect to the allegations contained in Paragraph 74 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

75. With respect to the allegations contained in Paragraph 75 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

76. With respect to the allegations contained in Paragraph 76 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

Plaintiff Delfino Olvera

77. With respect to the allegations contained in Paragraph 77 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

78. With respect to the allegations contained in Paragraph 78 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

79. With respect to the allegations contained in Paragraph 79 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

80. With respect to the allegations contained in Paragraph 80 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

81. With respect to the allegations contained in Paragraph 81 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

82. With respect to the allegations contained in Paragraph 82 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

83. With respect to the allegations contained in Paragraph 83 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

84. With respect to the allegations contained in Paragraph 84 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

85. With respect to the allegations contained in Paragraph 85 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

86. With respect to the allegations contained in Paragraph 86 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

87. With respect to the allegations contained in Paragraph 87 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

88. With respect to the allegations contained in Paragraph 88 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

89. With respect to the allegations contained in Paragraph 89 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

90. With respect to the allegations contained in Paragraph 90 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

91. With respect to the allegations contained in Paragraph 91 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

92. With respect to the allegations contained in Paragraph 92 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

93. With respect to the allegations contained in Paragraph 93 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

Plaintiff Fernando Peralta

94. With respect to the allegations contained in Paragraph 94 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

95. With respect to the allegations contained in Paragraph 95 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

96. With respect to the allegations contained in Paragraph 96 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

97. With respect to the allegations contained in Paragraph 97 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

98. With respect to the allegations contained in Paragraph 98 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

99. With respect to the allegations contained in Paragraph 99 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

100. With respect to the allegations contained in Paragraph 100 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

101. With respect to the allegations contained in Paragraph 101 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

102. With respect to the allegations contained in Paragraph 102 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

103. With respect to the allegations contained in Paragraph 103 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

104. With respect to the allegations contained in Paragraph 104 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

105. With respect to the allegations contained in Paragraph 105 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

106. With respect to the allegations contained in Paragraph 106 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

107. With respect to the allegations contained in Paragraph 107 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

108. With respect to the allegations contained in Paragraph 108 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

109. With respect to the allegations contained in Paragraph 109 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

Plaintiff Modesto Peralta

110. With respect to the allegations contained in Paragraph 110 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

111. With respect to the allegations contained in Paragraph 111 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

112. With respect to the allegations contained in Paragraph 112 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

113. With respect to the allegations contained in Paragraph 113 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

114. With respect to the allegations contained in Paragraph 114 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

115. With respect to the allegations contained in Paragraph 115 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

116. With respect to the allegations contained in Paragraph 116 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

117. With respect to the allegations contained in Paragraph 117 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

118. With respect to the allegations contained in Paragraph 118 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

119. With respect to the allegations contained in Paragraph 119 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

120. With respect to the allegations contained in Paragraph 120 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

121. With respect to the allegations contained in Paragraph 121 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

122. With respect to the allegations contained in Paragraph 122 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

123. With respect to the allegations contained in Paragraph 123 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

Defendant's General Employment Practices

124. With respect to the allegations contained in Paragraph 124 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph. In asserting such response, the Defendants note that no judicial determination has yet been made regarding what, if any, employees may be deemed "similarly situated" to the Plaintiffs for purposes of this action.

125. With respect to the allegations contained in Paragraph 125 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

126. With respect to the allegations contained in Paragraph 126 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

127. With respect to the allegations contained in Paragraph 127 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

128. With respect to the allegations contained in Paragraph 128 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

129. With respect to the allegations contained in Paragraph 129 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

130. With respect to the allegations contained in Paragraph 130 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

131. With respect to the allegations contained in Paragraph 131 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

132. With respect to the allegations contained in Paragraph 132 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

133. With respect to the allegations contained in Paragraph 133 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

134. With respect to the allegations contained in Paragraph 134 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

135. With respect to the allegations contained in Paragraph 135 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

136. With respect to the allegations contained in Paragraph 136 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

**AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS
REGARDING "FLSA COLLECTIVE ACTION CLAIMS"**

137. With respect to the allegations contained in Paragraph 137 of the Complaint, the Defendants admit only that Plaintiffs have brought an action under the FLSA, and that Plaintiffs purport to bring such claims as a collective action pursuant to FLSA Section 16(b), 2 U.S.C. § 216(b). In asserting such a response, the Defendants note that no "FLSA Class" has yet been certified to exist by the Court in this action, and thus it is as yet unclear exactly who would be included in any such group in the event that it were to be certified.

138. With respect to the allegations contained in Paragraph 138 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph. In asserting such a response, the Defendants note that no "FLSA Class" has yet been certified to exist by the Court in this action, and thus it is as yet unclear exactly who would be included in any such group in the event that it were to be certified.

139. With respect to the allegations contained in Paragraph 139 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph. In asserting such response, the Defendants note that no judicial determination has yet been made regarding what, if any, employees may be deemed "similarly situated" to the Plaintiffs for purposes of this action.

**AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS
REGARDING "FIRST CAUSE OF ACTION
(VIOLATION OF THE MINIMUM WAGE PROVISIONS OF THE FLSA)"**

140. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

141. With respect to the allegations contained in Paragraph 141 of the Complaint, the Defendants state that such allegations consists of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent that a response may be deemed required, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

142. With respect to the allegations contained in Paragraph 142 of the Complaint, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

143. With respect to the allegations contained in Paragraph 143 of the Complaint, the Defendants state that such allegations consists of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent that a response may be deemed required, the Defendants deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in such Paragraph.

144. With respect to the allegations contained in Paragraph 144 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

145. With respect to the allegations contained in Paragraph 145 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

146. With respect to the allegations contained in Paragraph 146 of the Complaint, the Defendants state that such allegations consists of statements and/or conclusions of law to which

no responsive pleading is required; however, to the extent that a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

**AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS
REGARDING "SECOND CAUSE OF ACTION
(VIOLATION OF THE OVERTIME PROVISIONS OF THE FLSA)"**

147. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

148. With respect to the allegations contained in Paragraph 148 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph. In asserting such a response, the Defendants note that no "FLSA Class" has yet been certified to exist by the Court in this action, and thus it is as yet unclear exactly who would be included in any such group in the event that it were to be certified.

149. With respect to the allegations contained in Paragraph 149 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph. In asserting such a response, the Defendants note that no "FLSA Class" has yet been certified to exist by the Court in this action, and thus it is as yet unclear exactly who would be included in any such group in the event that it were to be certified.

150. With respect to the allegations contained in Paragraph 150 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph. In asserting such a response, the Defendants note that no "FLSA Class" has yet been certified to exist by the Court in this action, and thus it is as yet unclear exactly who would be included in any such group in the event that it were to be certified.

**AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS
REGARDING "THIRD CAUSE OF ACTION
(VIOLATION OF THE NEW YORK MINIMUM WAGE ACT)"**

151. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

152. With respect to the allegations contained in Paragraph 152 of the Complaint, the Defendants state that such allegations consists of statements and/or conclusions of law to which no responsive pleading is required; however, to the extent that a response may be deemed required, the Defendants deny all of the allegations contained in such Paragraph.

153. With respect to the allegations contained in Paragraph 153 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

154. With respect to the allegations contained in Paragraph 154 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

155. With respect to the allegations contained in Paragraph 155 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

**AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS
REGARDING "FOURTH CAUSE OF ACTION
(VIOLATION OF THE OVERTIME PROVISIONS OF THE
NEW YORK LABOR LAW)"**

156. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

157. With respect to the allegations contained in Paragraph 157 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

158. With respect to the allegations contained in Paragraph 158 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

159. With respect to the allegations contained in Paragraph 159 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

**AS AND FOR AN ANSWER TO PLAINTIFFS' STATEMENTS
REGARDING "FIFTH CAUSE OF ACTION
(VIOLATION OF THE SPREAD OF HOURS WAGE ORDER
OF THE NEW YORK COMMISSIONER OF LABOR)"**

160. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

161. With respect to the allegations contained in Paragraph 161 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

162. With respect to the allegations contained in Paragraph 162 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

163. With respect to the allegations contained in Paragraph 163 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

**REGARDING "SIXTH CAUSE OF ACTION
(VIOLATION OF THE NOTICE AND RECORDKEEPING
REQUIREMENTS OF THE NEW YORK LABOR LAW)"**

164. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

165. With respect to the allegations contained in Paragraph 165 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

166. With respect to the allegations contained in Paragraph 166 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

REGARDING “SEVENTH CAUSE OF ACTION
(VIOLATION OF THE WAGE STATEMENT PROVISIONS
OF THE NEW YORK LABOR LAW)”

167. The Defendants repeat and reassert each and every one of the responses contained in the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

168. With respect to the allegations contained in Paragraph 168 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

169. With respect to the allegations contained in Paragraph 169 of the Complaint, the Defendants deny all of the allegations contained in such Paragraph.

AFFIRMATIVE AND OTHER DEFENSES

The Defendants assert the following affirmative and other defenses without assuming any burden of production or proof that they would not otherwise have. The Defendants further assert that, to the extent that the Plaintiffs' claims as alleged are vague or unclear, so as to render it difficult or impossible to identify and assert every possible affirmative or other defense, the Defendants hereby expressly reserve their rights to assert additional defenses should further proceedings in this action, including the progress of any discovery, reveal that such additional defenses would be applicable and appropriate.

AS AND FOR A FIRST DEFENSE TO THE PLAINTIFFS' COMPLAINT

The statements and allegations contained in the Plaintiffs' Complaint may fail to state any valid cause(s) of action upon which relief can be granted as a matter of fact and/or law, either on behalf of the Plaintiffs or on behalf of those persons whom they purport to represent.

AS AND FOR A SECOND DEFENSE TO THE PLAINTIFFS' COMPLAINT

The causes of action alleged in the Complaint may be barred, in whole or in part, by applicable statutes of limitation.

AS AND FOR A THIRD DEFENSE TO THE PLAINTIFFS' COMPLAINT

The causes of action alleged in the Complaint may not be maintained as a collective action under the Fair Labor Standards Act, 29 U.S.C. § 216, because the Plaintiffs, upon information and belief, are not similarly situated to some or all of the persons whom they purport to represent.

AS AND FOR A FOURTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The statements and allegations contained in the Complaint fail to meet the requirements necessary to justify collective action certification or the issuance of collective action notice

pursuant to 29 U.S.C. § 216 with respect to some or all of the employees alleged by the Plaintiffs to be similarly situated to them.

AS AND FOR A FIFTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Subject to proof through discovery, some or all of the claims asserted by the Plaintiffs and/or the putative class members may be barred in whole or in part by the doctrine of unclean hands.

AS AND FOR A SIXTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Subject to proof through discovery, some or all of the claims asserted by the Plaintiffs and/or the putative class members may be barred in whole or in part by the doctrine of estoppel, quasi-estoppel, and/or equitable estoppel.

AS AND FOR A SEVENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Subject to proof through discovery, some or all of the claims asserted by the Plaintiffs and/or the putative class members may be barred in whole or in part by the doctrines of laches and/or waiver.

AS AND FOR AN EIGHTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Subject to proof through discovery, the Plaintiffs and/or the putative class members may not meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, and this action may not properly be maintained as a class action with respect to some or all of the claims asserted.

AS AND FOR A NINTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The Defendants state, in the alternative if necessary, that part or all of any of the time for which the Plaintiffs and/or the putative class members seek compensation is properly preliminary

or postliminary time under the provisions of the Portal-to-Portal Pay Act, 29 U.S.C. § 254(a), and is therefore not compensable.

AS AND FOR A TENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The Defendants state, in the alternative if necessary, that their actions or omissions with respect to the Plaintiffs and/or putative class members were taken in good faith, with reasonable belief that such conduct comported with the requirements of federal and state law.

AS AND FOR AN ELEVENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

Some or all of the Defendants are not proper parties to some or all of the claims asserted in the Complaint.

AS AND FOR A TWELFTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The named Plaintiffs, upon information and belief, would inadequately protect and represent the interests of any potential class.

AS AND FOR A THIRTEENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The Plaintiffs' and/or putative class members' claims may be barred, in whole or in part, because some of the Defendants were not the Plaintiffs' and/or putative class members' "employer" as such term may be defined under applicable federal or state laws and regulations.

AS AND FOR A FOURTEENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

To the extent that any of the Plaintiffs and/or putative class members may have received compensation beyond that to which they were entitled under law, such additional compensation may satisfy, in whole or in part, any alleged claim for unpaid wages and overtime compensation or other monetary relief.

AS AND FOR A FIFTEENTH DEFENSE TO THE PLAINTIFFS' COMPLAINT

The Defendants state, in the alternative if necessary, that if they are found to have violated any law or regulation, that any such violation was not willful.

RESERVATION OF RIGHTS TO ASSERT ADDITIONAL DEFENSES

The Defendants state that they currently have insufficient knowledge or information on which to form a belief as to whether they may have additional, as yet unstated, defenses available. As such, the Defendants expressly reserve the right to assert additional defenses, and to seek to amend this Answer to include any such additional defenses, in the event that discovery indicates that any such additional defenses would be appropriate.

WHEREFORE, the Defendants respectfully request that judgment be entered by this Court dismissing any claims in the Complaint that are deemed by the Court to be lacking in merit, with prejudice, and granting such further relief as may be just and proper.

Dated: Long Island City, New York
May 27, 2014

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